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VIA HAND DELIVERY

2005 JUN 29 PM 1:16

TRAIL LETTER ROOM  
June 29, 2005

Guy M. Hicks  
General Counsel

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Hon. Pat Miller, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

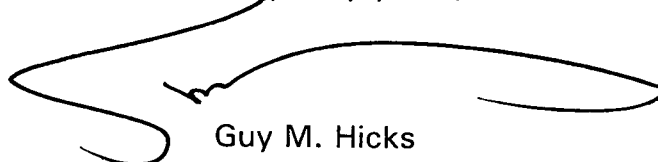
Re: *Joint Petition for Arbitration of NewSouth Communications Corp., et al. of  
an Interconnection Agreement with BellSouth Telecommunications, Inc.  
Pursuant to Section 252(b) of the Communications Act of 1934, as  
Amended*  
Docket No. 04-00046

Dear Chairman Miller:

This is to notify the Authority that the Mississippi Public Service Commission has recently entered its Order Granting BellSouth Telecommunications, Inc.'s Motion to Move TRO Arbitration Issues to Generic Proceeding. In its Order, the Mississippi Commission stated that it "...believes that it is neither necessary nor appropriate to extend the time and resources of the Arbitration Panel and the Parties addressing the TRO Arbitration Issues in the context of this Section 252 Arbitration when the same issues are likely to affect all competitive local exchange carriers ('CLECs') in Mississippi that have interconnection agreements with BellSouth. The TRO Arbitration Issues should therefore be addressed in the context of the Commission's Generic Proceedings, where all affected entities will have the opportunity to be heard on these issues and the Commission can render a single decision applicable to all affected entities."<sup>1</sup> Enclosed are fifteen copies of the Order.

Copies of this letter are being provided to counsel of record.

Very truly yours,



Guy M. Hicks

<sup>1</sup> See pages 2-3 of June 17, 2005 Order in Mississippi Docket No. 2004-AD-094.

**BEFORE THE  
MISSISSIPPI PUBLIC SERVICE COMMISSION  
ARBITRATION PANEL**

<b>In the Matter of</b>	)	
	)	
<b>Joint Petition for Arbitration of</b>	)	
<b>NewSouth Communications, Corp.,</b>	)	<b>Docket No. 2004-AD-094</b>
<b>KMC Telecom V, Inc.,</b>	)	
<b>KMC Telecom III LLC, and</b>	)	
<b>Xspedius Communications, LLC</b>	)	
<b>on Behalf of its Operating</b>	)	
<b>Subsidiaries Xspedius Management</b>	)	
<b>Co. Switched Services, LLC and</b>	)	
<b>Xspedius Management Co. of</b>	)	
<b>Jackson, LLC of an Interconnection</b>	)	
<b>Agreement with BellSouth</b>	)	
<b>Telecommunications, Inc.</b>	)	
<b>Pursuant to Section 252(b) of the</b>	)	
<b>Communications Act of 1934,</b>	)	
<b>as Amended</b>	)	

**ORDER GRANTING BELL SOUTH TELECOMMUNICATIONS, INC.'S  
MOTION TO MOVE TRO ARBITRATION ISSUES TO  
GENERIC PROCEEDING (Docket No. 2005-AD-139)**

THIS DAY, there came on for determination by the Mississippi Public Service Commission's ("Commission") duly appointed Arbitration Panel, BellSouth Telecommunications, Inc. ("BellSouth") Motion to move Arbitration Issue Nos. 26, 36, 37, 38 and 51 (including subparts) ("TRO Arbitration Issues") to the Commission's Generic Proceeding in MPSC Docket No. 2005-AD-139 for consideration and resolution by the Commission in that proceeding.

NewSouth Communications Corp., and Xspedius Communications, LLC on behalf of its operating subsidiaries (collectively "Joint Petitioners") and BellSouth are currently engaged in a Section 252 Arbitration proceeding before the Commission's duly appointed Arbitration Panel. Several issues in dispute in the Arbitration proceeding directly relate to the Federal

Communication Commission's ("FCC") findings in the *Triennial Review Order*, FCC 03-36, 18 FCC Rcd 16978 (Aug. 21, 2003) ("*TRO*") regarding commingling, enhanced extended loops ("*EEL*") audits, and line conditioning (previously defined as *TRO* Arbitration Issues).

On October 29, 2004, BellSouth filed with the Commission a petition in which BellSouth requested the Commission to open a generic proceeding so that the Commission could resolve, in one proceeding, issues related to, *inter alia*, several changes of law resulting from the *TRO* and the FCC's *Order and Notice of Proposed Rulemaking* in WC Docket No. 04-313, CC Docket No. 01-338 (rel. Aug. 20, 2004) ("*Interim Rules Order*") ("*IRO*") (Docket No. 2004-AD-724). Although the Commission assigned a docket number to BellSouth's petition, it did not open a generic proceeding at that time. However, on February 4, 2005, the FCC released its *Triennial Review Remand Order*, FCC 04-290, WC Docket No. 04-313, CC Docket No. 01-338 (rel. Feb. 4, 2005) ("*TRRO*") and by Commission Order dated March 9, 2005, it established a generic proceeding, Docket No. 2005-AD-139, to address issues related to the *IRO*, *TRO* and the *TRRO*.

The *TRO* Arbitration Issues are similar if not identical to the issues in the Commission's Generic Proceeding. Specifically, as set forth in the agreed-upon regional Issues Matrix for all Generic Proceedings in the BellSouth Region, Issue 26 in the Arbitration is identical to Issue 14 in the Commission's Generic Proceeding; Issue 51 in the Arbitration is virtually identical to Issue 29 in the Generic Proceeding; and Issues 36-38 in the Arbitration are encompassed within Issue 26 in the Generic Proceeding. Consequently, it is more than likely that all of the *TRO* Arbitration Issues will be addressed in the Commission's Generic Proceeding.

The Arbitration Panel believes that it is neither necessary nor appropriate to expend the time and resources of the Arbitration Panel and the Parties addressing the *TRO* Arbitration Issues in the context of this Section 252 Arbitration when the same issues are likely to affect all competitive local exchange carriers ("CLECs") in Mississippi that have interconnection

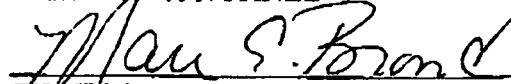
agreements with BellSouth. The TRO Arbitration Issues should therefore be addressed in the context of the Commission's Generic Proceeding, where all affected entities will have the opportunity to be heard on these issues and the Commission can render a single decision applicable to all affected entities.

Having duly considered the Motion and finding it well taken, the Arbitration Panel hereby finds and rules as follows:

IT IS, THEREFORE, ORDERED that Arbitration Issue Nos. 26, 36, 37, 38 and 51 (including subparts) are moved to the Commission's Generic Proceeding (Docket No. 2005-AD-139) for consideration and resolution.

SO ORDERED this the 14<sup>th</sup> day of June, 2005.

MISSISSIPPI PUBLIC SERVICE COMMISSION  
ARBITRATION PANEL

  
CHAIRMAN

## CERTIFICATE OF SERVICE

I hereby certify that on June 29, 2005, a copy of the foregoing document was served on the following, via the method indicated:

- ☐ Hand
- ☐ Mail
- ☐ Facsimile
- ☐ Overnight
- ☒ Electronic

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- ☐ Hand
- ☐ Mail
- ☐ Facsimile
- ☐ Overnight
- ☒ Electronic

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A handwritten signature in black ink, appearing to read "John J. Heitmann", is written over a horizontal line.